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TRANSCRIPT OF PROCEEDINGS

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of:
RESORT AVIATION SERVICES, INC.,
and
KOOTENAI COUNTY COEUR D'ALENE
AIRPORT,
Hayden, Idaho

WT Docket No. 02-179

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NEAL R. GROSS & CO., INC.
1323 RHODE ISLAND AVENUE, NW
WASHINGTON, D.C. 20005
TELEPHONE (202) 234-4433

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

-----))	
)	WT Docket No. 02-179
RESORT AVIATION)	
SERVICES, INC.)	File No. 0000628303
)	
For Renewal of Aeronautical)	
Advisory Station WYT9,)	
Coeur d'Alene Airport,)	
Hayden, Idaho)	
)	
and)	
)	
KOOTENAI COUNTY)	
COEUR D'ALENE AIRPORT)	File No. 0000663272
)	
For a New Aeronautical)	
Advisory Station at)	
Coeur d'Alene Airport,)	
Hayden, Idaho)	
)	
-----)		

Monday
 January 27, 2003

The above-entitled matter came on for hearing pursuant to Notice before Judge Arthur I. Steinberg, Administrative Law Judge, 445 12th Street, S.W., Washington, D.C. in Courtroom TW-A-363, at 9:00 a.m.

APPEARANCES:On Behalf of Resort Aviation Services, Inc.:

SCOTT W. REED, ESQ.
P.O. Box A
401 Front Street, Suite 205
Coeur d'Alene, Idaho 83814
(208) 664-2161

On Behalf of Kootenai County Coeur D'Alene Airport:

JOHN A. CAFFERTY
Kootenai County
Department of Legal Services
451 Government Way
P.O. Box 9000
Coeur d'Alene, Idaho 83816-9000
(208) 446-1620

On Behalf of the Federal Communications Commission:

DANA E. LEAVITT
Investigations and Hearings Division
445 12th Street, S.W.
Room 3-C326
Washington, D.C. 20554
(202) 418-1317

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P-R-O-C-E-E-D-I-N-G-S

(1:27 p.m.)

JUDGE STEINBERG: We're on the record now.

This is the date that we set for the commencement of the hearing in **WT** Docket Number 02-179, involving the mutually-exclusive applications of Resort Aviation Services, Inc. and Kootenai County Coeur d'Alene Airport for an aeronautical advisory station at Coeur d'Alene Airport in Hayden, Idaho.

This case was designated for hearing by Hearing Designation Order DA02-1550, released July 2, 2002. A prehearing conference was held on August 13, 2002.

It's about 1:30 p.m. We all met here at 9:00 this morning, and I said just a couple words about possibly settling the case. And the parties obviously took my word seriously, and I've been informed that they have, in fact, reached a settlement. And I'll let Mr. Reed speak, and then I'll let Mr. Cafferty speak, and if Ms. Leavitt wants to speak she may.

I should say that appearing for Resort Aviation Services, Inc. is Scott W. Reed, and appearing for Kootenai County Coeur d'Alene Airport is John Cafferty, and here on behalf of the Chief of the

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1 Commission's Enforcement Bureau is Dana Leavitt.

2 Okay. Mr. Reed?

3 MR. REED: Thank you, Judge. I appreciate
4 your strong words in the beginning.

5 We have prepared a stipulation; it's five
6 parts. My suggestion is that I read this a paragraph
7 at a time and get Mr. Cafferty's concurrence with
8 that, and then we'll --

9 JUDGE STEINBERG: Is that okay with you,
10 Mr. Cafferty?

11 MR. CAFFERTY: Yes.

12 MR. REED: This is the proposed
13 stipulation to resolve this matter.

14 Paragraph 1. "Resort Aviation's internal
15 UNICOM instructions dated 2/25/97 will be completely
16 rewritten. Kootenai County Coeur d'Alene Airport will
17 provide, by March 11, 2003, all proposed corrections,
18 revisions, and additions."

19 "If acceptable, Resort Aviation will so
20 advise Coeur d'Alene Airport by March 18, 2003. If
21 there is disagreement between the parties over the
22 wording that cannot be resolved, *the* parties shall
23 jointly agree upon a third party, nationally-
24 recognized, qualified UNICOM authority to resolve the
25 disagreement, with said third party having final

1 authority to create the UNICOM instructions."

2 MR. CAFFERTY: Kootenai County is in
3 agreement with that, Your Honor.

4 MR. REED: Paragraph 2. "When called upon
5 the UNICOM by incoming pilots, Resort Aviation shall
6 provide the information allowed by UNICOM's Focus
7 Services Section, 87.213, subparagraph B,
8 subparagraph 1."

9 JUDGE STEINBERG: Is that D or B?

10 MR. REED: B as in Baker.

11 JUDGE STEINBERG: Thank you.

12 MR. REED: "The UNICOM operator shall
13 initially advise the pilot to check AWAS," A-W-A-S,
14 "for wind and weather information. If the pilot is
15 unwilling or unable to check AWAS, the UNICOM operator
16 shall provide the correct AWAS information, together
17 with any additional related safety information."

18 MR. CAFFERTY: And Kootenai County is in
19 concurrence with that portion of the stipulation as
20 well, Your Honor.

21 JUDGE STEINBERG: That's the Automated
22 Weather Advisory --

23 MR. CAFFERTY: Observation System.

24 JUDGE STEINBERG: -- Observation System.

25 So I was sort of right? Because I was going to test

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1 all the witnesses by asking them what all of those
2 abbreviations were.

3 (Laughter.)

4 MR. REED: It's Automated Weather
5 Observation System.

6 JUDGE STEINBERG: Okay.

7 MR. REED: It's A-W-O-S. I said A-S, and
8 that's incorrect.

9 Paragraph 3. "Resort Aviation shall hold
10 the UNICOM license and be allowed to use frequency
11 122.80 for all exclusive UNICOM purposes specified in
12 UNICOM's scope of services, Section 87.213,
13 subparagraph B, subparagraph 1."

14 MR. CAFFERTY: Kootenai County is in
15 concurrence with that as well, Your Honor.

16 JUDGE STEINBERG: Okay.

17 MR. REED: Paragraph 4. "Any complaints
18 in the future which Resort Aviation may have about
19 unauthorized use or violations or interference with
20 its UNICOM operations by any person shall be directed
21 to the Federal Communications Commission and not to
22 Kootenai County."

23 MR. CAFFERTY: And Kootenai County is in
24 concurrence with that as well, Your Honor.

25 MR. REED: Paragraph 5, the final

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1 paragraph. "Kootenai County Coeur d'Alene Airport
2 shall withdraw its application for a UNICOM license
3 and withdraw its objections to the renewal of the
4 UNICOM license for Resort Aviation Services."

5 MR. CAFFERTY: And we are in agreement
6 with that as well, Your Honor. And I don't know if
7 you would entertain a motion at this time, or if you
8 wish to finish entering the stipulation on the record.

9 JUDGE STEINBERG: Well, are we finished
10 with the stipulation?

11 MR. REED: We're finished with the
12 stipulation.

13 JUDGE STEINBERG: Okay. And this will be,
14 obviously, reduced to writing and signed by everybody,
15 or it's -- is that what the plan is or --

16 MR. REED: To have it right here is just
17 fine, if this is --

18 JUDGE STEINBERG: Okay. That's fine with
19 me. I don't have to approve it. This isn't the type
20 of thing --

21 MR. REED: well, it's here, it's a
22 proceeding that's been in this court, and we can just
23 have a transcript of that and that would --

24 JUDGE STEINBERG: Yes. You'd have to --
25 that you get from the Court Reporter.

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1 MR. REED: That's fine.

2 JUDGE STEINBERG: Does that complete your
3 presentation?

4 MR. REED: Yes, Your Honor, as far as
5 we're concerned.

6 JUDGE STEINBERG: Mr. Cafferty?

7 MR. CAFFERTY: Yes, Your Honor. That is
8 my understanding of the agreement, and we are --
9 Kootenai County is in agreement with that.

10 JUDGE STEINBERG: Okay. Ms. Leavitt?

11 MS. LEAVITT: The Bureau would support
12 that agreement, Your Honor.

13 JUDGE STEINBERG: Okay. Now, do you want
14 to make an oral motion to withdraw your application
15 and withdraw any of your objections, or would you
16 prefer to do it in writing? If you -- I should tell
17 you, timing-wise, I'm not going to recite the
18 stipulation in any kind of order that I issue.

19 But timing-wise, if you move to withdraw
20 the application and withdraw your objections, and
21 there's no objection to that, I'll grant it, and I'll
22 get an order out essentially terminating the *case*
23 tomorrow or Wednesday. We've been faxing them around,
24 and it'll be released tomorrow -- issued tomorrow or
25 Wednesday, and then released about two days later.

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1 Released just means it gets put on some public table.

2 It'll just be a memorandum opinion order.
3 It won't be a decision. It'll essentially -- it'll
4 recite what went on here today in not very much
5 detail, and just say that pursuant to the agreement
6 you withdrew your application, withdrew the
7 objections. That only leaves one applicant, and the
8 comparative issue then becomes moot. And your
9 application would be dismissed, and theirs would be
10 granted.

11 In terms of when the license would
12 actually be issued, nobody in this room has any
13 control over that. But Ms. Leavitt can certainly --

14 MS. LEAVITT: I'll do what I can.

15 JUDGE STEINBERG: -- make some phone calls
16 and see if that can't be expedited. But you'll have
17 a piece of paper saying your application is granted.
18 Is that -- do you want to make a motion?

19 MR. CAFFERTY: Yes, that's what our -- we
20 would like to do, Your Honor.

21 JUDGE STEINBERG: Okay. There's a motion
22 by Kootenai County Coeur d'Alene Airport to withdraw
23 its application and to withdraw any objections it has
24 to the grant of Resort's application, is that correct?

25 MR. CAFFERTY: That is correct, Your

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1 Honor.

2 JUDGE STEINBERG: Is there any objection?

3 MR. REED: No, sir.

4 MS. LEAVITT: No, Your Honor.

5 JUDGE STEINBERG: Okay. The motion will
6 be granted. It's granted and then a written order
7 will be issued confirming it.

8 While we're on the record, I just want to
9 sincerely, from the bottom of my heart, thank you for
10 agreeing to settle the case. I think it's by far the
11 best solution that there was. It's certainly the
12 fastest way to do things, and I'm -- I trust that the
13 airport's concerns have been met, and Resort's
14 concerns have been met, and that neither of you are
15 entirely happy, and that maybe in two or three weeks
16 or four -- we're actually talking about the end of
17 March or the end of April -- you all feel a lot better
18 about each other than you did before you walked in
19 here today. And I'd just like to thank Ms. Leavitt
20 for the hard work that she has done to pull this
21 together.

22 MS. LEAVITT: Well, it's the parties, Your
23 Honor. They did it.

24 JUDGE STEINBERG: But I appreciate it, and
25 I'm sure the Commission appreciates it. If --

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1 MR. REED: On behalf of my clients, Your
2 Honor, I want to thank you very much for making us
3 resolve and settle this matter. And I also want to
4 express our deep appreciation to Dana Leavitt for the
5 very valuable assistance she gave to both of us.

6 JUDGE STEINBERG: Thank you.

7 MR. CAFFERTY: And I would join in
8 thanking you for the support, for encouraging us, and,
9 you know, bringing it to the parties' attention as to
10 what they're truly facing. I don't know why we
11 couldn't do this earlier, but I'm glad that we were
12 able to get it done today.

13 JUDGE STEINBERG: If it's any -- if it
14 makes you feel any better, lots of people don't do it
15 any earlier. It's just the reality of having to be in
16 this stupid room for a week with no windows and --

17 (Laughter.)

18 -- and usually this is very -- this robe
19 is very warm, and I usually turn the air conditioning
20 up, which causes people to wear scarves and gloves and
21 sweaters. And if I really get nasty, I don't take any
22 bathroom breaks.

23 (Laughter.)

24 But, no, it's -- like I said, if it makes
25 you feel any better, you're not the only one that has

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1 walked in here not knowing why they didn't settle
2 earlier.

3 But I sincerely thank you. This is
4 nothing personal, but I hope I never see any of you
5 again in my entire life.

6 (Laughter.)

7 Unless I get stuck in -- for some strange
8 reason in Coeur d'Alene.

9 (Laughter)

10 Okay. Okay. And then, if I do, to get to
11 the good weather section, I'll come to your house.

12 (Laughter.)

13 I won't hang out at the airport.

14 Okay. Thank you all very much, and we'll
15 go off the record now.

16 (Whereupon, at 1:39 p.m., the proceedings
17 in the foregoing matter were concluded.)
18
19
20
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24
25

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Name of Hearing

02-179

Docket No. (if applicable)

WASHINGTON, D.C

Place of Hearing

JANUARY 23, 2003

Date of Hearing

We, the undersigned, do hereby certify that the foregoing pages, numbers 39 through 50, inclusive, are the true, accurate and complete transcript prepared from the reporting by

DOUGLAS

WILSON

(Reporter's Name) in attendance at the above identified hearing, in accordance with applicable provisions of the current Federal Communications Commission's professional verbatim reporting and transcription statement of Work and have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the hearings and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the hearing or conference.

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